

HOUSE BILL No. 1342

DIGEST OF INTRODUCED BILL

Citations Affected: IC 1-1-3.5-5; IC 5-11-4-3.6; IC 6-1.1-18-5; IC 6-3.5; IC 6-6; IC 6-8.1-1-1; IC 8-14; IC 8-18-22-6; IC 9-14-6; IC 9-27-2-13; IC 9-29-1; IC 36-1-7-9; IC 36-5-4-13.

Synopsis: Gasoline tax. Replaces the per gallon tax on the use of gasoline with a \$0.0129 cent per mile tax for 2005 and a \$0.0147 cent per mile tax for 2006. Provides for the annual conversion of the per mile rate to a per gallon rate based on the annual motor vehicle miles of travel for Indiana and the annual total certified taxable gallons of motor fuel. Provides for an annual adjustment to the per gallon conversion rate for inflation. Provides that the per gallon conversion rate may not exceed \$0.22 in 2005 and \$0.25 in 2006. Provides that the per gallon conversion rate may not be reduced below the conversion rate of the previous year. Provides for distributions to match: (1) 2004 distributions from the motor vehicle highway account (MVHA) and the local road and street account; and (2) county wheel tax and county motor vehicle excise surtax collections. Eliminates the local road and street account. Requires at least 25% of the distributions from the MVHA to be used for purposes of the local road and street account. Imposes a supplemental gasoline tax if the federal gasoline tax is reduced below the per gallon rate imposed on January 1, 2004. Requires the bureau of motor vehicles (BMV) to increase certain fees. Requires that half of the state police appropriations currently paid from the MVHA must be paid from the BMV fee increases. Requires BMV personal services and other operating expenses to be paid from the fee increases rather than from the MVHA. Establishes the state police and bureau of motor vehicles operating fund. Repeals the laws governing the local road and street account.

Effective: July 1, 2004; January 1, 2005.

Liggett, Scholer

January 15, 2004, read first time and referred to Committee on Ways and Means.



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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1342

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 1-1-3.5-5, AS AMENDED BY P.L.204-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2005]: Sec. 5. (a) The governor shall forward a copy of
4 the executive order issued under section 3 of this chapter to:

- 5 (1) the director of the Indiana state library;
6 (2) the election division; and
7 (3) the Indiana Register.

8 (b) The director of the Indiana state library, or an employee of the
9 Indiana state library designated by the director to supervise a state data
10 center established under IC 4-23-7.1, shall notify each state agency
11 using population counts as a basis for the distribution of funds or
12 services of the effective date of the tabulation of population or
13 corrected population count.

14 (c) The agencies that the director of the Indiana state library must
15 notify under subsection (b) include the following:

- 16 (1) The auditor of state, for distribution of money from the
17 following:

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- 1 (A) The cigarette tax fund in accordance with IC 6-7-1-30.1.
- 2 (B) Excise tax revenue allocated under IC 7.1-4-7-8.
- 3 ~~(C) The local road and street account in accordance with~~
- 4 ~~IC 8-14-2-4.~~
- 5 ~~(D)~~ (C) The repayment of loans from the Indiana University
- 6 permanent endowment funds under IC 21-7-4.
- 7 (2) The board of trustees of Ivy Tech State College, for the board's
- 8 division of Indiana into service regions under IC 20-12-61-9.
- 9 (3) The department of commerce, for the distribution of money
- 10 from the following:
- 11 (A) The rural development fund under IC 4-4-9.
- 12 (B) The growth investment program fund under IC 4-4-20.
- 13 (4) The division of disability, aging, and rehabilitative services,
- 14 for establishing priorities for community residential facilities
- 15 under IC 12-11-1.1 and IC 12-28-4-12.
- 16 (5) The department of state revenue, for distribution of money
- 17 from the motor vehicle highway account fund under IC 8-14-1-3.
- 18 (6) The enterprise zone board, for the evaluation of enterprise
- 19 zone applications under IC 4-4-6.1.
- 20 (7) The alcohol and tobacco commission, for the issuance of
- 21 permits under IC 7.1.
- 22 (8) The Indiana library and historical board, for distribution of
- 23 money to eligible public library districts under IC 4-23-7.1-29.
- 24 (9) The state board of accounts, for calculating the state share of
- 25 salaries paid under IC 33-13-12, IC 33-14-7, and IC 33-15-26.
- 26 SECTION 2. IC 5-11-4-3.6, AS AMENDED BY P.L.204-2001,
- 27 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JANUARY 1, 2005]: Sec. 3.6. As provided in section 3 of this chapter,
- 29 each of the following units of state government and eligible federal
- 30 projects shall bear the direct and indirect costs of its own examination
- 31 from the following designated funds:
- 32 (1) Indiana department of transportation (except toll project costs
- 33 and expenses), ~~bureau of motor vehicles (including branch~~
- 34 ~~offices)~~; motor fuel tax division, ~~state police department~~; and
- 35 traffic safety functions under IC 9-27-2 from the motor vehicle
- 36 account fund.
- 37 (2) Indiana state teachers' retirement fund from the funds accruing
- 38 to that fund.
- 39 (3) Alcohol and tobacco commission from the funds accruing to
- 40 the alcoholic beverage enforcement and administration fund.
- 41 (4) Indiana department of transportation, for the costs and
- 42 expenses related to a particular toll project, from any special fund

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established for revenues from that project.

(5) State fair commission from the state fair fund.

(6) State colleges and universities from state appropriations. However, colleges and universities shall not be charged at a rate higher than that charged to local taxing units under section 3 of this chapter.

(7) Eligible federal grants and projects from funds provided by the federal government or as are properly chargeable to the grant or project or recoverable through an indirect cost allocation recovery approved by the federal government.

(8) State police department and bureau of motor vehicles (including branch offices) from the state police and bureau of motor vehicles operating fund established under IC 9-14-6.

SECTION 3. IC 6-1.1-18-5, AS AMENDED BY P.L.90-2002, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 5. (a) If the proper officers of a political subdivision desire to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, they shall give notice of their proposed additional appropriation. The notice shall state the time and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with IC 5-3-1-2(b).

(b) If the additional appropriation by the political subdivision is made from a fund that receives:

(1) distributions from the motor vehicle highway account established under IC 8-14-1-1; ~~or the local road and street account established under IC 8-14-2-4;~~ or

(2) revenue from property taxes levied under IC 6-1.1;

the political subdivision must report the additional appropriation to the department of local government finance. If the additional appropriation is made from a fund described under this subsection, subsections (f), (g), (h), and (i) apply to the political subdivision.

(c) However, if the additional appropriation is not made from a fund described under subsection (b), subsections (f), (g), (h), and (i) do not apply to the political subdivision. Subsections (f), (g), (h), and (i) do not apply to an additional appropriation made from the cumulative bridge fund if the appropriation meets the requirements under IC 8-16-3-3(c).

(d) A political subdivision may make an additional appropriation without approval of the department of local government finance if the additional appropriation is made from a fund that is not described under subsection (b). However, the fiscal officer of the political

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subdivision shall report the additional appropriation to the department of local government finance.

(e) After the public hearing, the proper officers of the political subdivision shall file a certified copy of their final proposal and any other relevant information to the department of local government finance.

(f) When the department of local government finance receives a certified copy of a proposal for an additional appropriation under subsection (e), the department shall determine whether sufficient funds are available or will be available for the proposal. The determination shall be made in writing and sent to the political subdivision not more than fifteen (15) days after the department of local government finance receives the proposal.

(g) In making the determination under subsection (f), the department of local government finance shall limit the amount of the additional appropriation to revenues available, or to be made available, which have not been previously appropriated.

(h) If the department of local government finance disapproves an additional appropriation under subsection (f), the department shall specify the reason for its disapproval on the determination sent to the political subdivision.

(i) A political subdivision may request a reconsideration of a determination of the department of local government finance under this section by filing a written request for reconsideration. A request for reconsideration must:

- (1) be filed with the department of local government finance within fifteen (15) days of the receipt of the determination by the political subdivision; and
- (2) state with reasonable specificity the reason for the request.

The department of local government finance must act on a request for reconsideration within fifteen (15) days of receiving the request.

SECTION 4. IC 6-3.5-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 13. (a) In the case of a county that does not contain a consolidated city of the first class, the county treasurer shall deposit the surtax revenues in a fund to be known as the "_____ County Surtax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county surtax fund during that month among the county and the cities and the towns in the county ~~The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).~~ **as follows:**

- (1) In counties having a population of more than fifty**

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thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) For purposes of allocating funds as provided in this section, towns that become incorporated as a town between the effective dates of decennial censuses are eligible for allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county surtax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the surtax revenues it receives under this section to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction.

SECTION 5. IC 6-3.5-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 15. (a) In the case of a county that does not contain a consolidated city, the county treasurer shall deposit the wheel tax revenues in a fund to be known as the "County Wheel Tax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county wheel tax fund during that month among the county and the cities and the towns in the county. ~~The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).~~ as follows:

(1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be

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distributed on the basis of the population of the city or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) For purposes of allocating funds as provided in this section, towns that become incorporated as a town between the effective dates of decennial censuses are eligible for allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county wheel tax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the wheel tax revenues it receives under this section:

(1) to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; or

(2) as a contribution to an authority established under IC 36-7-23.

SECTION 6. IC 6-6-1.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 103. As used in this chapter:

(a) "Administrator" means the administrative head of the department of state revenue or the administrator's designee.

(b) "Dealer" means a person, except a distributor, engaged in the business of selling gasoline in Indiana.

(c) "Department" means the department of state revenue.

(d) "Distributor" means a person who first receives gasoline in Indiana. However, "distributor" does not include the United States or any of its agencies unless their inclusion is permitted under the Constitution and laws of the United States.

(e) "Licensed distributor" means a person holding a valid distributor's license issued by the administrator.

(f) "Marine facility" means a marina or boat livery.

(g) "Gasoline" means:

(1) all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses; and

(2) any liquid, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products with American Society for Testing Materials Designation D-86, shows not less than ten percent (10%) distilled

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(recovered) below three hundred forty-seven degrees Fahrenheit (347 degrees F) or one hundred seventy-five degrees Centigrade (175 degrees C), and not less than ninety-five percent (95%) distilled (recovered) below four hundred sixty-four degrees Fahrenheit (464 degrees F) or two hundred forty degrees Centigrade (240 degrees C).

However, the term "gasoline" does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit (60 degrees F) or sixteen degrees Centigrade (16 degrees C), and a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute, or denatured, wood, or ethyl alcohol, ether, turpentine, or acetates, unless such product is used as an additive in the manufacture, compounding, or blending of a liquid within subdivision (2), in which event only the quantity so used is considered gasoline. In addition, "gasoline" does not include those liquids which meet the specifications of subdivision (2) but which are especially designated for use other than as a fuel for internal combustion engines.

(h) "Motor vehicle" means a vehicle, except a vehicle operated on rails, which is propelled by an internal combustion engine or motor and is designed to permit its mobile use on public highways.

(i) "Person" means a natural person, partnership, firm, association, corporation, limited liability company, representative appointed by a court, or the state or its political subdivisions.

(j) "Public highway" means the entire width between boundary lines of every publicly maintained way in Indiana including streets and alleys in cities and towns when any part of the way is open to public use for vehicle travel.

(k) "Taxable marine facility" means a marine facility located on an Indiana lake.

(l) "Taxicab" means a motor vehicle which is:

(1) designed to carry not more than seven (7) individuals, including the driver;

(2) held out to the public for hire at a fare regulated by municipal ordinance and based upon length of trips or time consumed;

(3) not operated over a definite route; and

(4) a part of a commercial enterprise in the business of providing taxicab service.

(m) "Terminal" means a marine or pipeline gasoline facility.

(n) "Metered pump" means a stationary pump having a meter that

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is capable of measuring the amount of gasoline dispensed through it.

(o) "Billed gallons" means the gallons indicated on an invoice for payment to a supplier.

(p) "Export" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the sale for export and delivery out of a state by or for the seller that is:

- (1) an export by the seller in the origin state; and
- (2) an import by the seller in the destination state.

(q) "Import" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the purchase for export and transportation out of a state by or for the purchaser that is:

- (1) an export by the purchaser in the origin state; and
- (2) an import by the purchaser in the destination state.

(r) "Rack" means a dock, platform, or open bay:

- (1) located at a refinery or terminal; and
- (2) having a system of metered pipes and hoses to load fuel into a tank wagon or tank transport.

(s) "Eligible unit" means a:

- (1) county that has adopted the county motor vehicle excise surtax (IC 6-3.5-4) and the county wheel tax (IC 6-3.5-5); or
- (2) city or town located in a county that has adopted the county motor vehicle excise surtax (IC 6-3.5-4) and the county wheel tax (IC 6-3.5-5).

SECTION 7. IC 6-6-1.1-201, AS AMENDED BY P.L.192-2002(ss), SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 201. (a) **Before January 1, 2005**, a license tax of eighteen cents (\$0.18) per gallon is imposed on the use of all gasoline used in Indiana, except as otherwise provided by this chapter.

(b) **After December 31, 2004, and before January 1, 2006**, a cents per mile license tax of one and twenty-nine hundredths cents (\$0.0129) is imposed on all gasoline used in Indiana, except as otherwise provided by this chapter. The cents per mile license tax is converted to a per gallon rate as provided in section 201.2 of this chapter.

(c) **After December 31, 2005**, a cents per mile license tax of one and forty-seven hundredths cents (\$0.0147) is imposed on all gasoline used in Indiana, except as otherwise provided by this chapter. The cents per mile license tax is converted annually to a

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per gallon rate as provided in section 201.2 of this chapter.

(d) The distributor shall initially pay the tax on the billed gallonage of all gasoline the distributor receives in this state, less any deductions authorized by this chapter. The distributor shall then add the per gallon amount of tax to the selling price of each gallon of gasoline sold in this state and collected from the purchaser so that the ultimate consumer bears the burden of the tax.

SECTION 8. IC 6-6-1.1-201.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 201.2. (a) As used in this section, "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index, all items, all urban consumers, or its successor index.**

(b) As used in this section, "motor fuel" has the meaning set forth in IC 6-6-4.1-1(g).

(c) The per gallon conversion of the cents per mile license tax imposed under section 201 of this chapter is the amount determined in STEP SEVEN of the following formula, rounded to the nearest one-tenth cent (\$0.001):

STEP ONE: Divide:

(A) the Indiana motor vehicle miles of travel (VMT) for the calendar year immediately preceding the calendar year in which the new per gallon conversion rate must be published under subsection (d), as reported by the United States Federal Highway Administration; by

(B) the certified taxable gallons of motor fuel for the calendar year immediately preceding the calendar year in which the new per gallon conversion rate must be published under subsection (d), as reported by the department;

to determine the current average miles per gallon (AMPG).

STEP TWO: Multiply the AMPG calculated under STEP ONE by the cents per mile license tax imposed under section 201 of this chapter.

STEP THREE: For calendar years 2005 and 2006, determine the percentage change between the CPI as last reported for calendar year 2002 and the CPI as last reported for the previous calendar year. For calendar year 2007 and each calendar year thereafter, determine the percentage change between the CPI as last reported for calendar year 2004 and the CPI as last reported for the previous calendar year.

STEP FOUR: Express the percentage change determined in

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1 **STEP THREE as a three (3) digit decimal rounded to the**
 2 **nearest thousandth.**

3 **STEP FIVE: Add one (1) to the decimal determined in STEP**
 4 **FOUR.**

5 **STEP SIX: Multiply the STEP TWO amount by the sum**
 6 **determined in STEP FIVE.**

7 **STEP SEVEN: For calendar year 2005, determine the lesser**
 8 **of the STEP SIX amount or twenty-two cents (\$0.22). For**
 9 **calendar year 2006, determine the lesser of the STEP SIX**
 10 **amount or twenty-five cents (\$0.25). For calendar years**
 11 **beginning after December 31, 2006, determine the greater of:**

12 **(A) the STEP SIX result; or**

13 **(B) the amount determined under this subsection for the**
 14 **previous calendar year.**

15 **(d) Not later than December 1 of each year, the department**
 16 **shall:**

17 **(1) publish the annual tax rate in effect for the following**
 18 **calendar year in the Indiana Register; and**

19 **(2) widely disseminate information concerning the**
 20 **applicability of the per gallon conversion rate.**

21 **(e) Not later than December 1 of each year, the department shall**
 22 **publish in the Indiana Register and widely disseminate information**
 23 **concerning:**

24 **(1) the certified taxable gallons of fuel; and**

25 **(2) the Indiana vehicle miles of travel;**

26 **used in the calculation of the per gallon conversion rate under**
 27 **subsection (c).**

28 **SECTION 9. IC 6-6-1.1-502 IS AMENDED TO READ AS**
 29 **FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 502. (a) Except**
 30 **as provided in subsection (b), at the time of filing each monthly report,**
 31 **each distributor shall pay to the administrator the full amount of tax**
 32 **due under this chapter for the preceding calendar month, computed as**
 33 **follows:**

34 **(1) Enter the total number of invoiced gallons of gasoline**
 35 **received during the preceding calendar month.**

36 **(2) Subtract the number of gallons for which deductions are**
 37 **provided by sections 701 through 705 of this chapter from the**
 38 **number of gallons entered under subdivision (1).**

39 **(3) Subtract the number of gallons reported under section 501(3)**
 40 **of this chapter.**

41 **(4) Multiply the number of invoiced gallons remaining after**
 42 **making the computation in subdivisions (2) and (3) by the tax rate**

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prescribed by section 201 of this chapter **(with respect to gasoline received before January 1, 2005) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2004)** to compute that part of the gasoline tax to be deposited in the highway, road, and street fund under section 802(2) of this chapter or in the motor fuel tax fund under section 802(3) of this chapter.

(5) Multiply the number of gallons subtracted under subdivision (3) by the tax rate prescribed by section 201 of this chapter **(with respect to gasoline received before January 1, 2005) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2004)** to compute that part of the gasoline tax to be deposited in the fish and wildlife fund under section 802(1) of this chapter.

(b) If the department determines that a distributor's:

(1) estimated monthly gasoline tax liability for the current year;
or

(2) average monthly gasoline tax liability for the preceding year; exceeds ten thousand dollars (\$10,000), the distributor shall pay the monthly gasoline taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

SECTION 10. IC 6-6-1.1-606.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 606.6. (a) Except as provided in subsection (c), every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways of Indiana in a vehicle having a total tank capacity of less than eight hundred fifty (850) gallons is liable to the state for a penalty equal to the rate provided in section ~~201~~ **201.2** of this chapter on all gasoline transported into Indiana and delivered to any person other than a licensed distributor.

(b) Except as provided in subsection (c), every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle on the highways of Indiana is liable to the state for a penalty equal to the rate provided in section ~~201~~ **201.2** of this chapter on all gasoline:

(1) received by the person for transportation to a point outside Indiana;

(2) not ~~in fact~~ transported to a point outside Indiana; and

(3) ~~in fact~~ delivered to a person other than a licensed distributor

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inside Indiana.

(c) The following are excluded when computing any liability under this section:

(1) All deliveries of gasoline when the tax imposed by law was charged or collected by the parties under the circumstances described in this section.

(2) Deliveries of gasoline used in computing the tax under section 301 of this chapter.

SECTION 11. IC 6-6-1.1-801.5, AS AMENDED BY P.L.192-2002(ss), SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 801.5. (a) **Before January 1, 2005**, the administrator shall transfer one-ninth (1/9) of the taxes that are collected under this chapter to the state highway road construction and improvement fund. **After December 31, 2004, the administrator shall transfer the amount determined under subsection (h) to the state highway road construction and improvement fund.**

(b) **Before January 1, 2005**, the administrator shall transfer one-eighteenth (1/18) of the taxes that are collected under this chapter to the state highway fund.

(c) **After December 31, 2004, and before January 1, 2006, the administrator shall transfer the amount determined under subsection (i) to the state highway fund.**

(d) **After December 31, 2005, the administrator shall transfer the amount determined under subsection (j) to the state highway fund.**

(e) **Before January 1, 2005**, the administrator shall transfer one-eighteenth (1/18) of the taxes that are collected under this chapter to the auditor of state for distribution to counties, cities, and towns. The auditor of state shall distribute the amounts transferred under this subsection to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subsection may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(f) **After December 31, 2004, and before January 1, 2006, the administrator shall transfer the amount of the taxes collected under this chapter that is determined in the last of the following STEPS to the motor vehicle highway account for distribution under IC 8-14-1-3(b):**

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1 **STEP ONE: Determine the amount of the taxes collected**
 2 **under this chapter.**

3 **STEP TWO: Determine the per gallon conversion tax rate**
 4 **determined under section 201.2 of this chapter.**

5 **STEP THREE: Multiply the STEP TWO result by one**
 6 **hundred (100).**

7 **STEP FOUR: Express a fraction, with three (3) being the**
 8 **numerator and the STEP THREE result being the**
 9 **denominator.**

10 **STEP FIVE: Multiply the STEP FOUR result by the STEP**
 11 **ONE result.**

12 **(g) After December 31, 2005, the administrator shall transfer**
 13 **the amount of the taxes collected under this chapter that is**
 14 **determined in the last of the following STEPS to the motor vehicle**
 15 **highway account for distribution under IC 8-14-1-3(b):**

16 **STEP ONE: Determine the amount of the taxes collected**
 17 **under this chapter.**

18 **STEP TWO: Determine the per gallon conversion tax rate**
 19 **determined under section 201.2 of this chapter.**

20 **STEP THREE: Multiply the STEP TWO result by one**
 21 **hundred (100).**

22 **STEP FOUR: Express as a percentage the quotient of four**
 23 **and five-tenths (4.5) divided by the STEP THREE result.**

24 **STEP FIVE: Multiply the STEP FOUR percentage by the**
 25 **STEP ONE result.**

26 **STEP SIX: Determine the amount, if any, of the taxes**
 27 **collected under this chapter that are attributable to that part**
 28 **of the per gallon conversion rate that exceeds twenty-five**
 29 **cents (\$0.25).**

30 **STEP SEVEN: Divide the STEP SIX amount, if any, by two**
 31 **(2).**

32 **STEP EIGHT: Add the STEP SEVEN amount, if any, to the**
 33 **STEP FIVE amount.**

34 **(h) The amount of the transfer required under subsection (a)**
 35 **after December 31, 2004, is the amount determined in the last of**
 36 **the following STEPS:**

37 **STEP ONE: Determine the amount of the taxes collected**
 38 **under this chapter.**

39 **STEP TWO: Determine the per gallon conversion tax rate**
 40 **determined under section 201.2 of this chapter.**

41 **STEP THREE: Multiply the STEP TWO result by one**
 42 **hundred (100).**

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1 **STEP FOUR: Express a fraction, with two (2) being the**
 2 **numerator and the STEP THREE result being the**
 3 **denominator.**

4 **STEP FIVE: Multiply the STEP FOUR result by the STEP**
 5 **ONE result.**

6 **(i) The amount of the transfers required under subsection (c)**
 7 **after December 31, 2004, and before January 1, 2006, is the**
 8 **amount determined in the last of the following STEPS:**

9 **STEP ONE: Determine the amount of the taxes collected**
 10 **under this chapter.**

11 **STEP TWO: Determine the per gallon conversion tax rate**
 12 **determined under section 201.2 of this chapter.**

13 **STEP THREE: Multiply the STEP TWO result by one**
 14 **hundred (100).**

15 **STEP FOUR: Express a fraction, with three (3) being the**
 16 **numerator and the STEP THREE result being the**
 17 **denominator.**

18 **STEP FIVE: Multiply the STEP FOUR result by the STEP**
 19 **ONE result.**

20 **(j) The amount of the transfer required under subsection (d)**
 21 **after December 31, 2005, is the amount determined in the last of**
 22 **the following STEPS:**

23 **STEP ONE: Determine the amount of the taxes collected**
 24 **under this chapter.**

25 **STEP TWO: Determine the per gallon conversion tax rate**
 26 **determined under section 201.2 of this chapter.**

27 **STEP THREE: Multiply the STEP TWO result by one**
 28 **hundred (100).**

29 **STEP FOUR: Express as a percentage the quotient of four**
 30 **and five-tenths (4.5) divided by the STEP THREE result.**

31 **STEP FIVE: Multiply the STEP FOUR percentage by the**
 32 **STEP ONE result.**

33 **STEP SIX: Determine the amount, if any, of the taxes**
 34 **collected under this chapter that are attributable to that part**
 35 **of the per gallon conversion rate that exceeds twenty-five**
 36 **cents (\$0.25).**

37 **STEP SEVEN: Divide the STEP SIX amount, if any, by two**
 38 **(2).**

39 **STEP EIGHT: Add the STEP SEVEN amount, if any, to the**
 40 **STEP FIVE amount.**

41 ~~(d)~~ **(k) After the transfers required by subsections (a) through (c);**
 42 **(g), the administrator shall transfer the next twenty-five million dollars**

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1 (\$25,000,000) of the taxes that are collected under this chapter and
 2 received during a period beginning July 1 of a year and ending June 30
 3 of the immediately succeeding year to the auditor of state for
 4 distribution in the following manner:

5 ~~(1) thirty percent (30%) to each of the counties, cities, and towns~~
 6 ~~eligible to receive a distribution from the local road and street~~
 7 ~~account under IC 8-14-2 and in the same proportion among the~~
 8 ~~counties, cities, and towns as funds are distributed under~~
 9 ~~IC 8-14-2-4;~~

10 ~~(2) thirty percent (30%)~~ **(1) Sixty percent (60%)** to each of the
 11 counties, cities, and towns eligible to receive a distribution from
 12 the motor vehicle highway account under ~~IC 8-14-1~~ and in the
 13 same proportion among the counties, cities, and towns as funds
 14 are distributed from the motor vehicle highway account
 15 established under IC 8-14-1 and for distribution to the counties,
 16 cities, and towns under IC 8-14-1-3(b).

17 ~~(3) (2)~~ Forty percent (40%) to the Indiana department of
 18 transportation.

19 ~~(c) (l)~~ The auditor of state shall hold all amounts of collections
 20 received under subsection ~~(d)~~ **(k)** from the administrator that are made
 21 during a particular month and shall distribute all of those amounts
 22 pursuant to subsection ~~(d)~~ **(k)** on the fifth day of the immediately
 23 succeeding month.

24 ~~(f) All~~ amounts distributed under subsection ~~(d)~~ may only be used
 25 for purposes that money distributed from the motor vehicle highway
 26 account may be expended under ~~IC 8-14-1~~.

27 SECTION 12. IC 6-6-1.7 IS ADDED TO THE INDIANA CODE
 28 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 29 JANUARY 1, 2005]:

30 Chapter 1.7. Supplemental Gasoline Tax

31 Sec. 1. The definitions and rules of construction contained in
 32 IC 6-6-1.1-103 and IC 6-6-1.1-104 apply throughout this chapter,
 33 unless the context clearly requires otherwise.

34 Sec. 2. Before May 1 of each year, the department shall
 35 determine whether the federal gasoline tax has been reduced below
 36 the per gallon rate imposed on January 1, 2004.

37 Sec. 3. (a) If the department determines under section 2 of this
 38 chapter that the federal gasoline tax has been reduced below the
 39 per gallon rate imposed on January 1, 2004, a supplemental
 40 gasoline tax is imposed on the use of all gasoline used in Indiana,
 41 except as otherwise provided by this chapter.

42 (b) The amount of the tax per gallon is:

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(1) the per gallon rate of the federal gasoline tax imposed on January 1, 2004; minus

(2) the per gallon rate of the federal gasoline tax imposed on May 1 of each year.

(c) The distributor initially shall pay the tax on the billed gallonage of all gasoline the distributor receives in Indiana, minus any deductions authorized by this chapter. The distributor shall then add the per gallon amount of tax to the selling price of each gallon of gasoline sold in Indiana and collected from the purchaser so that the ultimate consumer bears the burden of the tax.

Sec. 4. The per gallon tax rate imposed under section 3 of this chapter takes effect on July 1 following the department's determination under section 2 of this chapter that the federal gasoline tax has been reduced below the per gallon rate imposed on January 1, 2004.

Sec. 5. The supplemental gasoline tax imposed under this chapter shall be collected and administered in the same manner as the gasoline tax imposed under IC 6-6-1.1.

Sec. 6. All allowances, deductions, and exemptions allowed with respect to the gasoline tax apply to the supplemental gasoline tax imposed under this chapter.

Sec. 7. The administrator shall transfer the taxes collected under this chapter as follows:

(1) Seventy-five percent (75%) to the state highway fund.

(2) Twenty-five percent (25%) to the auditor of state for distribution to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1-3(f).

The auditor of state shall distribute the amounts transferred under subdivision (2) in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1-3(f). Money distributed under subdivision (2) may be used only for purposes for which money distributed from the motor vehicle highway account may be used under IC 8-14-1-3(f).

Sec. 8. The per gallon tax rate of the supplemental gasoline tax imposed under this chapter shall be adjusted annually to reflect changes to the per gallon rate of the federal gasoline tax.

Sec. 9. If the department determines on May 1 of a state fiscal year in which the supplemental gasoline tax is imposed under this chapter that the per gallon tax rate of the federal gasoline tax is equal to or greater than the per gallon tax rate of the federal

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gasoline tax imposed on January 1, 2004, the supplemental gasoline tax may not be imposed in the following state fiscal year.

Sec. 10. The department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 13. IC 6-6-2.5-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 67. The tax collected on the use of special fuel shall be used only for highway purposes and for payment of any part of the cost of ~~traffic policing and~~ traffic safety incurred by the state or any of its political subdivisions, as authorized by law.

SECTION 14. IC 6-6-2.5-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 68. (a) The administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

(1) Thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the local road and street account under ~~IC 8-14-2~~ and in the same proportion among the counties, cities, and towns as funds are distributed under ~~IC 8-14-2-4~~.

(2) Thirty percent (30%) **(1) Sixty percent (60%)** to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under ~~IC 8-14-1~~ and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account **established** under IC 8-14-1 **for distribution to the counties, cities, and towns under IC 8-14-1-3(b).**

~~(3)~~ **(2)** Forty percent (40%) to the Indiana department of transportation.

(b) The auditor of state shall hold all amounts of collections received from the administrator that are made during a particular month and shall distribute all of those amounts under subsection (a) on the fifth day of the immediately succeeding month.

(c) All amounts distributed under subsection (a) may only be used for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(d) All revenue collected under this chapter shall be used in the same manner as the revenue collected under IC 6-6-1.1. The administrator shall, after the transfers specified in subsection (a), deposit the remainder of the revenues collected under this chapter in

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the same manner that revenues are deposited under IC 6-6-1.1-802.

SECTION 15. IC 6-8.1-1-1, AS AMENDED BY P.L.192-2002(ss), SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); **the supplemental gasoline tax (IC 6-6-1.7)**; the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 16. IC 8-14-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. It is hereby declared to be the policy of the state of Indiana that:

- (1) the net amount in the motor vehicle highway account shall be budgeted for programs of traffic safety and for the construction, reconstruction, improvement, **and** maintenance ~~and policing~~ of the highways of the state;
- (2) a fair distribution thereof shall be made between the department and subordinate political subdivisions having jurisdiction of highways of the state;

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(3) the funds allotted shall be used in accordance with the policy herein declared and the provisions of this chapter; and

(4) the funds allocated to counties, cities, and towns from such motor vehicle highway account shall be budgeted as provided by law, and such county budgets shall be referred to the county **council fiscal body** for approval, revision, or reduction.

SECTION 17. IC 8-14-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 3. **(a)** The money collected for the motor vehicle highway account fund and remaining after refunds, and the payment of all expenses incurred in the collection thereof, and after the deduction of the amount appropriated to the department for traffic safety, ~~and after the deduction of one-half (1/2) of the amount appropriated for the state police department;~~ shall be allocated to and distributed among the department and subdivisions designated as follows:

(1) Of the net amount in the motor vehicle highway account the auditor of state shall set aside ~~for the cities and towns of the state fifteen percent (15%) thereof. This sum shall be allocated to the cities and towns upon the basis that the population of each city and town bears to the total population of all the cities and towns and shall be used for the construction or reconstruction and maintenance of streets and alleys and shall be annually budgeted as now provided by law. However, no part of such sum shall be used for any other purpose than for the purposes defined in this chapter. If any funds allocated to any city or town shall be used by any officer or officers of such city or town for any purpose or purposes other than for the purposes as defined in this chapter, such officer or officers shall be liable upon their official bonds to such city or town in such amount so used for other purposes than for the purposes as defined in this chapter, together with the costs of said action and reasonable attorney fees, recoverable in an action or suit instituted in the name of the state of Indiana on the relation of any taxpayer or taxpayers resident of such city or town. A monthly distribution thereof of funds accumulated during the preceding month shall be made by the auditor of state: forty-seven percent (47%) for distribution under subsection (b).~~

(2) Of the net amount in the motor vehicle highway account, the auditor of state shall set aside for the counties of the state thirty-two percent (32%) thereof. However, as to the allocation to cities and towns under subdivision (1); and as to the allocation to counties under this subdivision in the event that the amount in the

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motor vehicle highway account fund remaining after refunds and the payment of all expenses incurred in the collection thereof and after deduction of any amount appropriated by the general assembly for public safety and policing shall be less than twenty-two million six hundred and fifty thousand dollars (\$22,650,000); in any fiscal year then the amount so set aside in the next calendar year for distributions to counties shall be reduced fifty-four percent (54%) of such deficit and the amount so set aside for distribution in the next calendar year to cities and towns shall be reduced thirteen percent (13%) of such deficit. Such reduced distributions shall begin with the distribution January 1 of each year.

(3) The amount set aside for the counties of the state under the provisions of subdivision (2) shall be allocated monthly upon the following basis:

(A) Five percent (5%) of the amount allocated to the counties to be divided equally among the ninety-two (92) counties:

(B) Sixty-five percent (65%) of the amount allocated to the counties to be divided on the basis of the ratio of the actual miles, now traveled and in use, of county roads in each county to the total mileage of county roads in the state, which shall be annually determined, accurately, by the department:

(C) Thirty percent (30%) of the amount allocated to the counties to be divided on the basis of the ratio of the motor vehicle registrations of each county to the total motor vehicle registration of the state:

All money so distributed to the several counties of the state shall constitute a special road fund for each of the respective counties and shall be under the exclusive supervision and direction of the board of county commissioners in the construction, reconstruction, maintenance, or repair of the county highways or bridges on such county highways within such county:

(4) (2) Each month the remainder of the net amount in the motor vehicle highway account shall be credited to the state highway fund for the use of the department.

(5) (3) Money in the fund may not be used for any toll road or toll bridge project.

(6) (4) Notwithstanding any other provisions of this section, money in the motor vehicle highway account fund may be appropriated to the Indiana department of transportation from the ~~forty-seven percent (47%)~~ **money** distributed to the political subdivisions of the state **under subsection (b)** to pay the costs

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incurred by the department in providing services to those subdivisions.

~~(7)~~ **(5)** Notwithstanding any other provisions of this section or of IC 8-14-8, for the purpose of maintaining a sufficient working balance in accounts established primarily to facilitate the matching of federal and local money for highway projects, money may be appropriated to the Indiana department of transportation as follows:

(A) One-half (1/2) from the ~~forty-seven percent (47%)~~ **money** set aside under ~~subdivisions (1) and (2)~~ **subsection (b)** for counties and for those cities and towns with a population greater than five thousand (5,000).

(B) One-half (1/2) from the distressed road fund under IC 8-14-8.

(b) The gasoline taxes and special fuel taxes deposited in the motor vehicle highway account fund under IC 6-6-1.1-801.5 and IC 6-6-2.5-68, respectively, the money deposited into the motor vehicle highway account under IC 8-14-2-3(c), and the money set aside under subsection (a)(1) shall be allocated and distributed as follows:

(1) First, to make monthly distributions to the counties, cities, and towns in the amounts determined under subsection (c).

(2) Second, to make monthly distributions to eligible units in the amounts determined under subsection (d) or (e). However, the amounts distributed under this subdivision must be reduced as provided under subsection (g) if insufficient revenue is available to fully fund the distributions.

(3) Third, to distribute the remainder, if any, to the counties, cities, and towns as provided under subsection (f).

(c) After December 31, 2004, each county, city, or town eligible to receive a distribution from the motor vehicle highway account under this chapter is entitled to a monthly distribution under subsection (b)(1) equal to:

(1) the total amount distributed to the county, city, or town in 2004 from the motor vehicle highway account under this chapter and the local road and street account under IC 8-14-2-4 (before its repeal); divided by

(2) twelve (12).

(d) This subsection does not apply to an eligible unit that did not receive county wheel taxes and county motor vehicle excise surtaxes in the previous calendar year. After December 31, 2004, an eligible unit is entitled to receive a monthly distribution under

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subsection (b)(2) equal to:

- (1) the total amount of county wheel taxes and county motor vehicle excise surtaxes distributed to the eligible unit in the previous calendar year; divided by
- (2) twelve (12).

Before January 5, the county auditor of each county shall certify to the auditor of state the total amount of county wheel taxes and county motor vehicle excise surtaxes distributed to the eligible unit in the previous calendar year.

(e) This subsection applies only to an eligible unit that did not receive county wheel taxes and county motor vehicle excise surtaxes in the previous calendar year. The bureau of motor vehicles shall estimate the amount of county wheel taxes and county motor vehicle excise surtaxes that the eligible unit will receive in the first calendar year that the county wheel taxes and county motor vehicle excise taxes are collected in the eligible unit's county and certify the estimated amount to the auditor of state. The eligible unit is entitled to a monthly distribution under subsection (b)(2) equal to:

- (1) the certified amount of estimated county wheel taxes and county motor vehicle excise surtaxes; divided by
- (2) twelve (12).

(f) This subsection applies to any money that is available for distribution under subsection (b)(3). The auditor of state shall distribute the money as follows:

- (1) Thirty-one and nine-tenths percent (31.9%) to the cities and towns. This sum shall be allocated to the cities and towns on the basis of the ratio that the population of each city and town bears to the total population of all the cities and towns, shall be used for the construction or reconstruction and maintenance of streets and alleys, and shall be annually budgeted as provided by law. However, the money may not be used for any other purpose than for the purposes described in this chapter. If any funds allocated to a city or town are used by an officer or officers of the city or town for a purpose other than for the purposes described in this chapter, the officer or officers are liable upon their official bonds to the city or town in the amount used for a purpose other than for the purposes described in this chapter, together with the costs of the action and reasonable attorney's fees, recoverable in an action or suit instituted in the name of the state of Indiana on the relation of a taxpayer or resident of the city or town. A

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1 monthly distribution of funds accumulated during the
2 preceding month shall be made by the auditor of state.

3 (2) Sixty-eight and one-tenth percent (68.1%) to the counties
4 to be allocated monthly on the following basis:

5 (A) Five percent (5%) of the amount allocated to the
6 counties to be divided equally among the ninety-two (92)
7 counties.

8 (B) Sixty-five percent (65%) of the amount allocated to the
9 counties to be divided on the basis of the ratio of the actual
10 miles, now traveled and in use, of county roads in each
11 county to the total mileage of county roads in the state,
12 which shall be determined annually by the department.

13 (C) Thirty percent (30%) of the amount allocated to the
14 counties to be divided on the basis of the ratio of the motor
15 vehicle registrations of each county to the total motor
16 vehicle registrations of the state.

17 All money so distributed to the counties of the state
18 constitutes a special road fund for each of the respective
19 counties and is under the exclusive supervision and direction
20 of the board of county commissioners in the construction,
21 reconstruction, maintenance, or repair of the county highways
22 or bridges on the county highways within the county.

23 (g) This subsection applies only to an eligible unit. If
24 distributions under subsection (b)(2) must be reduced, the amounts
25 determined under subsections (d) and (e) shall be reduced as
26 follows:

27 **STEP ONE: Determine the sum of:**

28 (1) the total amount of county wheel taxes and county
29 motor vehicle excise surtaxes collected in the previous year
30 in the counties; plus

31 (2) the total amount of county wheel taxes and county
32 motor vehicle excise surtaxes that are estimated to be
33 collected in the first year that the taxes are imposed in the
34 counties that did not collect the taxes in the previous year.

35 **STEP TWO: Determine the ratio that the total amount of**
36 **money available for distribution under subsection (b)(2) bears**
37 **to the STEP ONE sum.**

38 **STEP THREE: Multiply the amounts determined under**
39 **subsections (d) and (e) for each eligible unit by the ratio**
40 **determined under STEP TWO.**

41 **SECTION 18. IC 8-14-1-4 IS AMENDED TO READ AS**
42 **FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 4. (a) The funds**

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1 allocated to the respective counties of the state from the motor vehicle
 2 highway account shall annually be budgeted as provided by law, and,
 3 when distributed shall be used for **engineering, land acquisition,**
 4 **construction, resurfacing, restoration, rehabilitation,** reconstruction,
 5 and maintenance of the highways of the respective counties, including
 6 highways which traverse the streets of incorporated towns, the cost of
 7 the repair and maintenance of which prior to the tenth day of
 8 September, 1932, was paid from the county gravel road repair fund
 9 excepting where the department is charged by law with the
 10 maintenance or construction of any such highway so traversing such
 11 streets. Any surplus existing in the funds at the end of the year shall
 12 thereafter continue as a part of the highway funds of the said counties
 13 and shall be rebudgeted and used as already provided in this chapter.
 14 The purchase, rental, and repair of highway equipment, painting of
 15 bridges, and acquisition of grounds for erection and construction of
 16 storage buildings, acquisition of rights of way, and the purchase of fuel
 17 oil and supplies necessary to the performance of construction,
 18 reconstruction and maintenance of highways shall be paid out of the
 19 highway account of the various counties.

20 **(b) At least twenty-five percent (25%) of the money distributed**
 21 **to a county under this chapter must be used for engineering, land**
 22 **acquisition, construction, resurfacing, restoration, and**
 23 **rehabilitation of highway facilities.**

24 SECTION 19. IC 8-14-1-5, AS AMENDED BY P.L.61-2000,
 25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JANUARY 1, 2005]: Sec. 5. (a) All funds allocated to cities and towns
 27 from the motor vehicle highway account shall be used by the cities and
 28 towns for the construction, reconstruction, repair, maintenance, oiling,
 29 sprinkling, snow removal, weed and tree cutting, and cleaning of their
 30 highways as herein defined, and including also any curbs, and the city's
 31 or town's share of the cost of the separation of the grades of crossing of
 32 public highways and railroads, the purchase or lease of highway
 33 construction and maintenance equipment, the purchase, erection,
 34 operation, and maintenance of traffic signs and signals and safety zones
 35 and devices; and the painting of structures, objects, surfaces in
 36 highways for purposes of safety and traffic regulation. All of such
 37 funds shall be budgeted as provided by law.

38 (b) In addition to purposes for which funds may be expended under
 39 subsections (a) and (c) of this section, monies allocated to cities and
 40 towns under this chapter may be expended for law enforcement
 41 purposes, subject to the following limitations:

42 (1) For cities and towns with a population of less than five

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thousand (5,000), no more than fifteen percent (15%) may be spent for law enforcement purposes.

(2) For cities and towns other than those specified in subdivision (1) of this subsection, no more than ten percent (10%) may be spent for law enforcement purposes.

(c) In addition to purposes for which funds may be expended under subsections (a) and (b) of this section, monies allocated to cities and towns under this chapter may be expended for the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

(d) At least twenty-five percent (25%) of the money distributed to a city or town under this chapter must be used for engineering, land acquisition, construction, resurfacing, restoration, and rehabilitation of highway facilities.

SECTION 20. IC 8-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 1. As used in this chapter:

(1) "Primary highway system special account" means the account of the state known as the "primary highway system special account" to which is credited monthly fifty-five percent (55%) of the money deposited in the highway, road and street fund.

~~(2) Local road and street account means the account of the state known as the "local road and street account" to which is credited monthly forty-five percent (45%) of the money deposited in the highway, road, and street fund.~~

~~(3)~~ (2) The term "department" refers to the Indiana department of transportation created under IC 8-23-2.

~~(4)~~ (3) The term "primary highways" shall mean that portion of the federal-aid highway system designated by the department and approved by the United States department of transportation as being the state "primary highway system".

~~(5)~~ (4) The term "construction" shall mean both construction and reconstruction to a degree that new, supplementary, or substantially improved traffic service is provided, and significant geometric or structural improvements are effected.

~~(6)~~ (5) "Arterial road system" shall mean the system of roads including bridges in each county of Indiana, under the jurisdiction of the board of county commissioners, or successor body, including a department of transportation of a consolidated city, designated as such by the board under IC 8-23-4-3, but not including local county roads.

~~(7)~~ (6) "Local county roads" shall mean all county roads and

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bridges which are not designated as being in the arterial road system.

~~(8)~~ (7) "Arterial street system" means the system of streets, including bridges in each city or town in Indiana, under the jurisdiction of municipal street authorities or successor bodies, including a department of transportation of a consolidated city, designated as such by the board under IC 8-23-4-4, but not including local streets.

~~(9)~~ (8) "Local streets" shall mean all city and town streets and bridges which are not designated as being in the arterial street system in each city or town.

~~(10)~~ (9) "Resurfacing" means the placement of additional pavement layers (including protective systems for bridge decks) over the existing (or restored or rehabilitated) roadway or bridge deck surface to provide additional strength or to improve serviceability for a substantial time period.

~~(11)~~ (10) "Restoration and rehabilitation" means work required to return the existing structure (roadway pavement or bridge deck) to a suitable condition for an additional stage of construction (bridge deck protective system or resurfacing) or to a suitable condition to perform satisfactorily for a substantial time period.

SECTION 21. IC 8-14-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. It is hereby declared to be the intent of the general assembly that the monies deposited in the primary highway system special account ~~and the local road and street account~~ shall be used exclusively for engineering, land acquisition, construction, resurfacing, restoration, and rehabilitation of highway facilities.

SECTION 22. IC 8-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The auditor of state shall credit the state highway fund established under IC 8-23-9-54 monthly with fifty-five percent (55%) of the money deposited in the highway, road and street fund.

(b) Funds allocated to the department under this chapter must be appropriated.

(c) Beginning January 1, 2005, the auditor of state shall credit the motor vehicle highway account established under IC 8-14-1 with forty-five percent (45%) of the money deposited in the highway, road and street fund. The amount credited to the motor vehicle highway account under this subsection must be used to make the distributions required under IC 8-14-1-3(b).

SECTION 23. IC 8-18-22-6 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 6. (a) Except as provided in subsection (b), the county fiscal body may pledge revenues for the payment of principal and interest on the bonds and for other purposes under the ordinance as provided by IC 5-1-14-4, including revenues from the following sources:

- (1) The motor vehicle highway account.
- ~~(2) The local road and street account.~~
- ~~(3)~~ (2) The county motor vehicle excise surtax.
- ~~(4)~~ (3) The county wheel tax.
- ~~(5)~~ (4) The county adjusted gross income tax.
- ~~(6)~~ (5) The county option income tax.
- ~~(7)~~ (6) The economic development income tax.
- ~~(8)~~ (7) Assessments.
- ~~(9)~~ (8) Any other unappropriated or unencumbered money.

(b) The county fiscal body may not pledge to levy ad valorem property taxes for these purposes, except for revenues from the following:

- (1) IC 8-16-3.
- (2) IC 8-16-3.1.

(c) If the county fiscal body has pledged revenues from the county option income tax as set forth in subsection (a), the county income tax council (as defined in IC 6-3.5-6-1) may covenant that the council will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county income tax council may make the covenant by adopting an ordinance using procedures described in IC 6-3.5-6.

(d) If the county fiscal body has pledged revenues from the economic development income tax as set forth in subsection (a), the county income tax council (if the council is the body that imposed the tax) may covenant that the council will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county income tax council may make the covenant by adopting an ordinance using procedures described in IC 6-3.5-6.

SECTION 24. IC 9-14-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 6. State Police and Bureau of Motor Vehicles Operating Fund

Sec. 1. (a) The state police and bureau of motor vehicles operating fund is established to pay:

- (1) one-half (1/2) of the amount annually appropriated for the**

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1 state police department; and

2 (2) the expenses incurred by the bureau.

3 (b) The fund shall be administered by the bureau.

4 Sec. 2. The treasurer of state shall invest the money in the fund
5 not currently needed to meet the obligations of the fund in the same
6 manner as other public funds may be invested.

7 Sec. 3. Money in the fund at the end of a state fiscal year does
8 not revert to the state general fund.

9 Sec. 4. After the deduction of one-half (1/2) of the amount
10 appropriated for the state police department, there is annually
11 appropriated to the bureau the money remaining in the fund to pay
12 the bureau's personal services and other operating expenses.

13 Sec. 5. The fund consists of the following:

14 (1) Fees deposited into the fund under IC 9-29-1-10.

15 (2) Revenue deposited into the fund under IC 9-27-2-13.

16 (3) Money received from any other source, including
17 appropriations.

18 SECTION 25. IC 9-27-2-13 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) Driver safety
20 specialists, acting for the bureau, may conduct schools, seminars, or
21 other courses for the benefit of local units of government, other state
22 agencies, federal agencies, organizations, or private businesses for the
23 purpose of improving the state's traffic safety climate.

24 (b) The bureau may impose a fee on participating individuals or
25 groups at a rate adequate to reimburse the state for the direct cost to the
26 state of conducting the educational programs.

27 (c) The bureau may enter into agreements as needed to meet the
28 purposes of this chapter.

29 (d) The revenue collected for the purpose of reimbursing the state
30 for the direct costs of the educational programs shall be deposited in
31 the ~~motor vehicle highway account established under IC 8-14-1.~~ state
32 **police and bureau of motor vehicles operating fund established**
33 **under IC 9-14-6.**

34 SECTION 26. IC 9-29-1-1 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. Except as provided
36 in:

37 (1) sections 2 through 4 of this chapter; and

38 (2) **section 10 of this chapter;**

39 all money collected by the bureau under IC 9-14-5, IC 9-18-2,
40 IC 9-18-5, IC 9-18-6, IC 9-18-7, IC 9-18-9, IC 9-18-10, IC 9-18-11,
41 IC 9-18-16, IC 9-24-3, IC 9-24-4, IC 9-24-5, IC 9-24-7, IC 9-24-8,
42 IC 9-24-10, IC 9-24-11, IC 9-24-12, IC 9-24-13, and IC 9-24-14 shall

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be deposited daily with the treasurer of state and credited to the motor vehicle highway account established under IC 8-14-1.

SECTION 27. IC 9-29-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A public service fee of twenty-five cents (\$0.25) is imposed. The public service fee shall be collected in addition to all registration fees collected under IC 9-18.

(b) Money collected under subsection (a) shall be deposited in the state police building account. Money in the account:

(1) does not revert to the state general fund, ~~or the motor vehicle highway account~~, except as provided under subsection (c); and

(2) shall be expended for the following:

(A) The construction, maintenance, leasing, and equipping of state police facilities.

(B) Other projects provided for by law.

(c) At the end of each state fiscal year, the auditor of state shall transfer to the state general fund the balance in the state police building account that is in excess of appropriations made for the construction, maintenance, leasing, or equipping of state police facilities and other projects provided for by law.

(d) Transfers under subsection (c) shall be made until one million five hundred thousand dollars (\$1,500,000) has been transferred to the state general fund.

SECTION 28. IC 9-29-1-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) **Subject to subsection (c), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to increase by an amount that is necessary to provide adequate and sufficient funds to pay the obligations of the fund, each of the fees imposed under the following:**

IC 9-29-4-3

IC 9-29-5

IC 9-29-9-1

IC 9-29-9-2

IC 9-29-9-3

IC 9-29-9-4

IC 9-29-9-5

IC 9-29-9-6

IC 9-29-9-7

IC 9-29-9-8

IC 9-29-9-9

IC 9-29-9-10

IC 9-29-9-11

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1 **IC 9-29-9-13**

2 **IC 9-29-9-14**

3 **IC 9-29-15-1**

4 **IC 9-29-15-2**

5 **IC 9-29-15-3**

6 **IC 9-29-15-4.**

7 **The amount of fees increased under this section shall be deposited**
8 **into the fund.**

9 **(b) The amounts of the fee increases required under subsection**
10 **(a) are in addition to the fees specified by statute.**

11 **(c) The bureau's authority to adopt rules under subsection (a)**
12 **is subject to the condition that a fee increase must be uniform**
13 **throughout all license branches and at all partial service locations**
14 **in Indiana.**

15 **(d) The fee increases required by subsection (a) apply to**
16 **transactions occurring after December 31, 2004.**

17 **(e) As used in this section, "fund" means the state police and**
18 **bureau of motor vehicles operating fund established under**
19 **IC 9-14-6.**

20 SECTION 29. IC 36-1-7-9 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 9. (a) This section
22 may be used only for an agreement between an Indiana municipality
23 and the executive of the county in which it is located concerning
24 highway construction and maintenance and related matters.

25 (b) An agreement under this section must provide for the following:

26 (1) Its duration, which may not be more than four (4) years.

27 (2) The specific functions and services to be performed or
28 furnished by the county on behalf of the municipality.

29 In addition, such an agreement may provide for any other appropriate
30 matters.

31 (c) An agreement under this section may provide for either of the
32 following:

33 (1) A stipulation that distributions from the motor vehicle
34 highway account under IC 8-14-1 ~~the local road and street~~
35 ~~account under IC 8-14-2, or both,~~ be made to the county rather
36 than to the municipality.

37 (2) A stipulation that the municipality will appropriate a specified
38 part of those distributions for purposes listed in the agreement.

39 SECTION 30. IC 36-5-4-13, AS AMENDED BY P.L.170-2002,
40 SECTION 146, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JANUARY 1, 2005]: Sec. 13. (a) Except as provided in
42 subsection (c), this subsection applies to a town with a population of

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1 five hundred (500) or less. Notwithstanding the provisions of any other
 2 statute, a town may transfer money from any town fund to another town
 3 fund after the passage of an ordinance or a resolution by the town
 4 legislative body specifying the:

- 5 (1) amount of the transfer;
- 6 (2) funds involved;
- 7 (3) date of the transfer; and
- 8 (4) general purpose of the transfer.

9 (b) Except as provided in subsection (c), this subsection applies to
 10 a town having a population of more than five hundred (500) but less
 11 than two thousand (2,000). Notwithstanding IC 8-14-1, ~~and IC 8-14-2~~;
 12 a town may transfer money distributed to the town from

- 13 ~~(1) the motor vehicle highway account under IC 8-14-1~~
- 14 ~~(2) the local road and street account under IC 8-14-2; or~~
- 15 ~~(3) the:~~

16 ~~(A) motor vehicle highway account under IC 8-14-1; and~~

17 ~~(B) local road and street account under IC 8-14-2;~~

18 to any other town fund after the passage of an ordinance or a resolution
 19 by the town legislative body that specifies the amount of the transfer,
 20 the funds involved, the date of the transfer, and the general purpose of
 21 the transfer. However, the total amount of all money transferred by a
 22 town under this subsection may not exceed forty thousand dollars
 23 (\$40,000).

24 (c) A:

- 25 (1) municipality located in a county having a population of more
 26 than fourteen thousand nine hundred (14,900) but less than
 27 sixteen thousand (16,000); and

28 (2) town:

- 29 (A) located in a county having a population of more than
 30 thirty-four thousand nine hundred (34,900) but less than
 31 thirty-four thousand nine hundred fifty (34,950); and

32 (B) having a population of less than one thousand (1,000);

33 may not transfer money under this section to or from a food and
 34 beverage tax receipts fund established under IC 6-9.

35 SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE
 36 JANUARY 1, 2005]: IC 8-14-2-4; IC 8-14-2-5.

37 SECTION 32. [EFFECTIVE JULY 1, 2004] (a) The department
 38 of state revenue, before November 1, 2004, shall publish in the
 39 Indiana Register the per gallon conversion rate determined under
 40 IC 6-6-1.1-201.2, as added by this act, that is applicable for the
 41 calendar year beginning January 1, 2005.

42 (b) IC 6-6-1.1-606.6, as amended by this act, applies to gasoline

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- 1 **used after December 31, 2004.**
2 **(c) This SECTION expires January 1, 2006.**
3 SECTION 33. [EFFECTIVE JANUARY 1, 2005] **(a) This**
4 **SECTION applies to the period beginning January 1, 2005, and**
5 **ending July 1, 2005.**
6 **(b) Notwithstanding P.L.224-2003, SECTION 4, the following**
7 **may not be paid or deducted from the motor vehicle highway**
8 **account established under IC 8-14-1:**
9 **(1) Appropriations for the state police department.**
10 **(2) Personal services and other operating expenses of the**
11 **bureau of motor vehicles.**
12 **(c) This SECTION expires July 1, 2005.**

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